

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:04-CR-18

v.

HON. ROBERT HOLMES BELL

MICHAEL DONAWA,

Defendant.

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MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket nos. 75 and 77). Based on a review of defendant's motion, the Sentence Modification Report, submissions by counsel on behalf of the defendant and the government, and the original criminal file, the Court has determined that the motion should be denied as follows:

Defendant pled guilty to four offenses for which the statutory mandatory minimum was 120 months. Defendant received a sentence of 120 months in custody at the time of sentencing on July 22, 2004. The Sentencing Guidelines provide that "where a statutorily required minimum sentence is greater than the maximum of the applicable guideline range, the statutorily required minimum sentence shall be the guideline sentence." USSG §5G1.1(b). Since Amendment 706 does not result in a lower guideline range due to the mandatory minimum sentence imposed, defendant is not eligible for a sentence reduction under 18 U.S.C. §3582(c)(2) and USSG §1B1.10.

Date: October 26, 2009

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE